

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:21-CV-177-MOC-DCK**

**ANDRE ANTONIO DAVIS,**

**Plaintiff,**

**v.**

**MICROSOFT CORPORATION,  
BLACKROCK FUND ADVISORS, and  
VANGUARD GROUP, INC.,**

**Defendants.**

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**ORDER**

**THIS MATTER IS BEFORE THE COURT** on *pro se* Plaintiff's "Motion to Compel" (Document No. 31); "Stipulation And Order To Amend Amended Complaint" (Document No. 33) "Motion To Compel First Appearance" (Document No. 34); and "Stipulation And Order..." (Document No. 35); all filed on August 26, 2021. These motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motions, the record, and applicable authority, the undersigned will deny the motions.

**BACKGROUND**

As an initial matter, the undersigned observes that *pro se* Plaintiff Andre Antonio Davis ("Plaintiff" or "Davis") has filed at least sixteen (16) lawsuits in this Court in the past eleven (11) months. It appears that half these cases have already been dismissed by the Court because they were "frivolous" and/or "severely deficient," or voluntarily dismissed by Mr. Davis instead of paying the Court's filing fee.

The instant motions also appear to be “frivolous” and/or “severely deficient.” See (Document Nos. 31, 33, 34, 35). None of these filings comply with this Court’s requirements under the Local Rules for motions. See LCvR 7.1. Moreover, the motions lack any legal argument or support. In several instances, even liberally construing the *pro se* Plaintiff’s filing, it is impossible to discern what relief he seeks. For example, Plaintiff has captioned one filing as a “Motion To Compel First Appearance,” but the “motion” only contains one sentence – “My name is Andre Antonio Davis an is represented Pro Se” – and a signature line. See (Document No. 34).

The Court will respectfully decline to grant any of the instant motions. Plaintiff is advised that his filings must comply with the Federal Rules of Civil Procedure and the Local Rules of this Court, even if he is appearing without representation.

The undersigned will briefly address what appears to be Plaintiff’s request for leave to file a Second Amended Complaint. See (Document No. 33).

### **STANDARD OF REVIEW**

Federal Rule of Civil Procedure 15 applies to the amendment of pleadings and allows a party to amend once as a matter of course within 21 days after serving, or “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed.R.Civ.P. 15(a)(1). Rule 15 further provides:

**(2) Other Amendments.** In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.

Fed.R.Civ.P. 15(a)(2).

Under Rule 15, a “motion to amend should be denied only where it would be prejudicial, there has been bad faith, or the amendment would be futile.” Nourison Rug Corporation v.

Parvizian, 535 F.3d 295, 298 (4th Cir. 2008) (citing HCMF Corp. v. Allen, 238 F.3d 273, 276-77 (4th Cir. 2001)); see also, Foman v. Davis, 371 U.S. 178, 182 (1962). However, “the grant or denial of an opportunity to amend is within the discretion of the District Court.” Pittston Co. v. U.S., 199 F.3d 694, 705 (4th Cir. 1999) (quoting Foman, 371 U.S. at 182).

### **DISCUSSION**

In this case, Plaintiff has already amended his complaint once, and there is no indication that Defendants consent to further amendment. See (Document No. 6). Notably, “Defendant Microsoft Corporation’s Motion To Dismiss Amended Complaint” (Document No. 11) was filed on August 6, 2021; and Plaintiff has filed a response in opposition (Document No. 36). As such, Defendant Microsoft’s motion to dismiss will soon be ripe for review by the Honorable Max O. Cogburn, Jr.

In addition, the undersigned notes that Plaintiff’s motion to amend provides little, if any, explanation for why he seeks to amend or any legal authority to support further amendment. See (Document No. 33). After careful consideration, and without more information from Plaintiff, the undersigned finds that allowing a Second Amended Complaint is likely futile and prejudicial to Defendant Microsoft.

**IT IS, THEREFORE, ORDERED** that the “Motion to Compel” (Document No. 31) is **DENIED**.

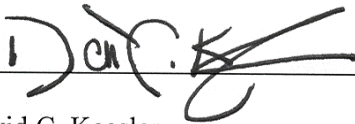
**IT IS FURTHER ORDERED** that the “Stipulation And Order To Amend Amended Complaint” (Document No. 33) is **DENIED**.

**IT IS FURTHER ORDERED** that the “Motion To Compel First Appearance” (Document No. 34) is **DENIED**.

**IT IS FURTHER ORDERED** that the “Stipulation And Order...” (Document No. 35) is  
**DENIED.**

**SO ORDERED.**

Signed: August 31, 2021

  
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David C. Keesler  
United States Magistrate Judge

